IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.K.DENESAN

TUESDAY, THE 23RD JANUARY 2007 / 3RD MAGHA 1928

WP(C).No. 2005 of 2007(L)

PETITIONER:

GIREESH BABU, S/O.N.DAMODARAN NAMBIAR,
AGED 38 YEARS, NADUKANI HOUSE, PAYYAMPALLY P.O.
MANANTHAVADY, WAYANAD DISTRICT.

BY ADV. SRI.RAFFEEKH.K

RESPONDENTS:

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1. THE DIRECTOR OF ANIMAL HUSBANDRY,
THIRUVANANTHAPURAM.

2. THE DISTRICT ANIMAL HUSBANDRY OFFICER,
KALPETTA, WAYANAD.

3. THE KERALA PUBLIC SERVICE COMMISSION,
REPRESENTED BY ITS SECRETARY, PATTOM P.O.
THIRUVANANTHAPURAM.

4. THE DISTRICT PUBLIC SERVICE COMMISSION,
KALPETTA, WAYANAD.

R1 & 2 BY GOVT. PLEADER SHRI.BIJOY CHANDRAN.
R3 & 4 BY SHRI.P.C.SASIDHARAN, SC, PSC.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 23/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.K.DENESAN, J.

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WP(C).No.2005 OF 2007-L.

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Dated this the 23rd day of January, 2007.

J U D G M E N T

The petitioner feels aggrieved by the seniority assigned to him in Ext.P5. According to him, he is entitled to count his seniority in the post of Live Stock Inspector with effect from 16-6-2003 which is the date of effective advice by the P.S.C. for appointment to the above post. The respondents have noted 3-1-2004 as the relevant date because the petitioner was re-advised on that date after discharge from service for want of vacancies. Counsel for the petitioner submits that the point for consideration is covered by the decision of this Court in *Labour Commissioner v. Joshua* (2006(1) KLT 241). Petitioner wants the 2nd respondent to look into his grievance and to rectify the alleged mistake crept into the seniority list (Ext.P5).

2. I have heard counsel for the petitioner, Government Pleader for respondents 1 and 2 and the Legal Retainer for respondents 3 and 4.

3. Shri.P.C.Sasidharan, appearing for respondents 3

and 4 submits that occasions may arise where a person advised for appointment and actually appointed pursuant to the advice may be discharged from service for want of vacancies. In such cases, by virtue of the right conferred under Rule 7 of Part II of K.S. & S.S.R. he may be readvised against a subsequent vacancy. In certain cases, the first advice may be cancelled if the Commission finds that, that advice was invalid and erroneous, due to wrong application of facts or law. Such candidates, when their turn arise against the next vacancy can be once again advised. In such cases the candidate will not get the benefit of the first advice, for, in his case the effective advice will be the subsequent advice which alone need be taken into account for future service benefits.

4. Ext.P6 representation filed by the petitioner is pending with the 2nd respondent. Hence that respondent has got a duty to consider the request made by the petitioner in the light of the fact situation and the relevant rules. Since the matter relates to the determination of seniority, the 2nd respondent shall take into consideration the views of the Public Service Commission as may be communicated to him through the 1st respondent. Appropriate orders shall be passed having regard to all factual and legal aspects of

the matter. This shall be done as early as possible, in any event, within three months from the date of receipt of a copy of this Judgment. The petitioner shall produce a copy of this judgment together with a copy of the writ petition before the 2nd respondent for appropriate action.

The writ petition is disposed of as above.

K.K.DENESAN, JUDGE.

kvs/-